

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN (COLUMBUS) DIVISION**

Brian Garrett, et al.,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

The Ohio State University,

Defendant.

Civil Case 2:18-cv-00692-MHW-EPD

Judge Michael H. Watson

Chief Magistrate Judge Elizabeth P. Deavers

CONSOLIDATED CLASS ACTION

Michael Alf, et al.,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

The Ohio State University,

Defendant.

Civil Case: 2:21-cv-02542-MHW-EPD

Judge Michael H. Watson

Chief Magistrate Judge Elizabeth P. Deavers

CLASS ACTION

**PLAINTIFFS' MOTION TO RESET ORAL ARGUMENT
IN LIGHT OF IMMINENT RECUSAL MOTION(S)**

Plaintiffs, by and through counsel, hereby respectfully move this Honorable Court to continue the oral argument scheduled for September 21, 2021 on the pending motion to dismiss until such time that the Court resolves a forthcoming motion to recuse. Pursuant to S.D. Ohio Civ. R. 7.3, Plaintiffs consulted with Defendant regarding this request on September 13, 2021,

but as of the time of filing, have received no response from Defendant regarding its position on the request. This is Plaintiffs' first request to reset the oral argument date.

On September 9, 2021, this Court held a telephone conference with all parties. In that conference, the Court notified the parties about a reporter's inquiry that caused the Court (Watson, J.) to review its previous disclosures and provide previously-undisclosed information concerning Judge Watson's wife's business. Specifically, the Court disclosed that Judge Watson's wife owns a business that manufactures and sells flags, including The Ohio State University ("OSU") flags; the Court disclosed that her business has a licensing agreement with Defendant and pays OSU a fee to use its trademark. Since then, *NBC News* and *The Columbus Dispatch* have reported that OSU also made certain financial payments to Judge Watson's wife's business, information that (if true) has not yet been disclosed by the Court or the defendant.¹

The Court instructed the parties to inform the Court by Sunday, September 19, 2021, whether any party seeks the Court's recusal in light of the newly-disclosed information concerning the Judge's spouse's business dealings with the Defendant.

At the September 9, 2021 conference, the Court also set oral argument on the motion to dismiss in the above-captioned case and related actions for September 21, 2021, two days after the deadline for filing of submission(s) concerning recusal.

The undersigned counsel is in the process of conferring with counsel for Plaintiffs in the related actions concerning the recusal issue. It is clear that one or more Plaintiff groups—

¹ <https://www.nbcnews.com/news/us-news/judge-presiding-over-ohio-state-sex-abuse-scandal-lawsuits-flagged-n1278935>; <https://www.dispatch.com/story/news/2021/09/13/federal-judge-gives-plaintiffs-option-recuse-him-strauss-cases/8316905002/>. The reported payment in 2021 represents over 7% of a district judge's salary. Plaintiffs do not know what payments, if any, the defendant made to the Court's family business in prior years during which this action was pending.

including the undersigned—will move the Court to recuse itself from these cases. Plaintiffs will submit a separate filing requesting recusal on or before the Court-ordered deadline of September 19, 2021.

Plaintiffs believe that oral argument on the motions to dismiss should await resolution of the forthcoming recusal motion(s). It would be improper (or, at a minimum, create the appearance of impropriety) for the Court to hold oral argument while the Court is considering a pending recusal motion. In addition, should the Court grant a motion to recuse, it will plainly not decide any of the motions to dismiss, nor hear oral argument on those motions.

Given the uncertainty of this situation, Plaintiffs ask this Court for a prompt postponement of the date of oral argument. Absent prompt postponement, the time and expense of traveling to Columbus to participate in oral argument will result in costs being incurred imminently. We believe that a number of survivor Plaintiffs (many of whom do not live in Columbus or even Ohio) will wish to attend the argument, and understand survivor Plaintiffs are in the process of making travel arrangements to the courthouse, arranging time off from work, or seeking relief from family obligations (e.g., childcare). Other members of the public are likely also arranging to attend. Arguing counsel are dedicating their professional energies to prepare, including rescheduling other professional and personal commitments. Many Plaintiffs' counsel will also be traveling from outside Ohio to participate in the argument.

Plaintiffs thus respectfully request that the Court reset the oral argument date at this juncture, before Plaintiffs expend further resources to attend and prepare for an oral argument that may not happen, and that in any event, should not take place until after resolution of the forthcoming recusal motion.

Respectfully Submitted,

/s/ Simina Vourlis
Simina Vourlis
The Law Office of Simina Vourlis
856 Pullman Way
Columbus, OH 43212
(614) 487-5900
(614) 487-5901 fax
svourlis@vourlislaw.com

Rex A. Sharp
Larkin Walsh
Sarah T. Bradshaw
SHARP LAW, LLP
5301 W. 75th Street
Prairie Village, KS 66208
(913) 901-0505
(913) 901-0419 fax
rsharp@midwest-law.com
lwalsh@midwest-law.com
sbradshaw@midwest-law.com

Robert Allard
CORSIGLIA, MCMAHON AND ALLARD, LLP
96 North Third Street, Suite 620
San Jose, CA 95112
(408) 289-1417
(408) 289-8127 fax
rallard@cmalaw.net

Stephen Estey
ESTEY & BOMBERGER LLP
2869 India Street
San Diego, CA 92103
619-295-0035
619-295-0172 fax
steve@estey-bomberger.com

Daniel R. Karon (#0069304)
KARON LLC
700 W. St. Clair Ave., Suite 200
Cleveland, OH 44113
Tel.: 216.622.1851
dkaron@karonllc.com

Joseph Sauder
SAUDER SCHELKOPF LLC
555 Lancaster Avenue
Berwyn, PA 19312
(610) 200-0580
(610) 421-1326
jgs@sstriallawyers.com

COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing document was filed and served, via the Court's CM/ECF system on September 14, 2021, on all counsel of record.

By: /s/ Simina Vourlis
Attorney for Plaintiffs